

AMENDED IN SENATE JANUARY 6, 2014

**SENATE BILL**

**No. 386**

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**Introduced by Senator Correa**

February 20, 2013

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An act to amend Section ~~290.03 of the Penal Code, relating to registered sex offenders.~~ *2575 of the Education Code, relating to school finance.*

LEGISLATIVE COUNSEL'S DIGEST

SB 386, as amended, Correa. ~~Registered sex offenders: local ordinances.~~ *School finance: county superintendents of schools: regional occupational centers or programs.*

*Existing law, for the 2013–14 and 2014–15 fiscal years only, prohibits a county superintendent of schools who, in the 2012–13 fiscal year, received funds from specified funding sources on behalf of, or provided funds to, a regional occupational center or program joint powers agency, from redirecting that funding for another purpose unless otherwise authorized by law or pursuant to an agreement between the regional occupational center or program joint powers agency and the contracting county superintendent of schools.*

*This bill would prohibit a county superintendent of schools who, in the 2012–13 fiscal year, received funds from specified funding sources on behalf of, or provided funds to, a regional occupational center or program consortium, from redirecting that funding for another purpose unless otherwise authorized by law or pursuant to an agreement between the members of the regional occupational center or program consortium and the county superintendent of schools.*

~~Existing law, the Sex Offender Registration Act, requires persons convicted of specified sex offenses to register with local authorities for~~

life while residing, located, attending school, or working in California. Existing law, as adopted by the voters by the passage of Proposition 83 at the November 7, 2006, statewide general election, prohibits a person who is required to register as a sex offender from living in specified places, including within 2000 feet of a school or park where children regularly gather. Existing law authorizes municipal jurisdictions to enact local ordinances that further restrict the residency of the registered sex offender. Existing law makes it a misdemeanor for a person who is on parole for specified sex offenses to enter any park where children regularly gather without express permission from the person's parole agent.

~~This bill would state that the Legislature does not preempt local agencies from enacting ordinances that restrict where registered sex offenders may go within a local municipality.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 2575 of the Education Code is amended  
2     to read:  
3     2575. (a) Commencing with the 2013–14 fiscal year and for  
4     each fiscal year thereafter, the Superintendent shall calculate a  
5     base entitlement for the transition to the county local control  
6     funding formula for each county office of education based on the  
7     sum of the amounts computed pursuant to paragraphs (1) to (3),  
8     inclusive:  
9     (1) Revenue limits in the 2012–13 fiscal year pursuant to Article  
10    3 (commencing with Section 2550) of Chapter 12, as that article  
11    read on January 1, 2013, adjusted only for changes in average daily  
12    attendance claimed by the county superintendent of schools for  
13    pupils identified in clauses (i), (ii), and (iii) of subparagraph (A)  
14    of paragraph (4) of subdivision (c) of Section 2574 and for pupils  
15    attending juvenile court schools. All other average daily attendance  
16    claimed by the county superintendent of schools and any other  
17    average daily attendance used for purposes of calculating revenue  
18    limits pursuant to Article 3 (commencing with Section 2550) of  
19    Chapter 12, as that article read on January 1, 2013, shall be  
20    considered final for purposes of this section as of the annual  
21    apportionment for the 2012–13 fiscal year, as calculated for

purposes of the certification required on or before February 20, 2014, pursuant to Section 41332.

(2) The sum of both of the following:

(A) The amount of funding received from appropriations contained in Section 2.00 of the Budget Act of 2012, as adjusted by Section 12.42, in the following items: 6110-104-0001, 6110-105-0001, 6110-107-0001, 6110-108-0001, 6110-111-0001, 6110-124-0001, 6110-128-0001, 6110-137-0001, 6110-144-0001, 6110-156-0001, 6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001, 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001, 6110-209-0001, 6110-211-0001, 6110-212-0001, 6110-227-0001, 6110-228-0001, 6110-232-0001, ~~6110-234-0001~~, 6110-240-0001, 6110-242-0001, 6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001, 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-266-0001, 6110-267-0001, 6110-268-0001, and 6360-101-0001, 2012–13 fiscal year funding for the Class Size Reduction Program pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28 of Division 4 of Title 2, as that chapter read on January 1, 2013, and 2012–13 fiscal year funding for pupils enrolled in community day schools who are mandatorily expelled pursuant to subdivision (d) of Section 48915.

(B) The amount of local revenues used to support a regional occupational center or program established and maintained by a county superintendent of schools pursuant to Section 52301.

(3) For the 2014–15 fiscal year and for each fiscal year thereafter, the sum of the amounts apportioned to the county office of education pursuant to subdivision (f) in all prior years.

(b) The Superintendent shall annually compute a county local control funding formula transition adjustment for each county superintendent of schools as follows:

(1) Subtract the amount computed pursuant to subdivision (a) from the amount computed pursuant to subdivision (e) of Section 2574. A difference of less than zero shall be deemed to be zero.

(2) Divide the difference for each county superintendent of schools calculated pursuant to paragraph (1) by the total sum of the differences for all county superintendents of schools calculated pursuant to paragraph (1).

(3) Multiply the proportion calculated for each county ~~office of education~~ *superintendent of schools* pursuant to paragraph (2) by

1 the amount of funding specifically appropriated for purposes of  
2 subdivision (f). The amount calculated shall not exceed the  
3 difference for the county superintendent of schools calculated  
4 pursuant to paragraph (1).

5 (c) The Superintendent shall subtract from the amount calculated  
6 pursuant to subdivision (a) the sum of each of the following:

7 (1) Local property tax revenues received pursuant to Section  
8 2573 in the then current fiscal year.

9 (2) Any amounts that the county superintendent of schools was  
10 required to maintain as restricted and not available for expenditure  
11 in the 1978–79 fiscal year as specified in the second paragraph of  
12 subdivision (c) of Section 6 of Chapter 292 of the Statutes of 1978,  
13 as amended by Chapter 51 of the Statutes of 1979.

14 (3) The amount received pursuant to subparagraph (C) of  
15 paragraph (3) of subdivision (a) of Section 33607.5 of the Health  
16 and Safety Code that is considered property taxes pursuant to that  
17 section.

18 (4) The amount, if any, received pursuant to Sections 34177,  
19 34179.5, 34179.6, 34183, and 34188 of the Health and Safety  
20 Code.

21 (5) The amount, if any, received pursuant to subparagraph (B)  
22 of paragraph (3) of subdivision (e) of Section 36 of Article XIII  
23 of the California Constitution.

24 (d) The Superintendent shall subtract from the amount computed  
25 pursuant to subdivision (e) of Section 2574 the sum of the amounts  
26 computed pursuant to paragraphs (1) to (5), inclusive, of  
27 subdivision (c).

28 (e) The Superintendent shall annually apportion to each county  
29 superintendent of schools the amount calculated pursuant to  
30 subdivision (c) unless the amount computed pursuant to subdivision  
31 (c) is negative. If the amount computed is negative, except as  
32 provided in subdivision (f), an amount of property tax of the county  
33 superintendent of schools equal to the negative amount shall be  
34 deemed restricted and not available for expenditure during the  
35 fiscal year. In the following fiscal year, that amount, excluding  
36 any amount of funds used for purposes of subdivision (f), shall be  
37 considered restricted local property tax revenue for purposes of  
38 subdivision (a) of Section 2578. State aid shall not be apportioned  
39 to the county superintendent of schools pursuant to this subdivision  
40 if the amount computed pursuant to subdivision (c) is negative.

1 (f) (1) The Superintendent shall apportion, from an  
2 appropriation specifically made for this purpose, the amount  
3 computed pursuant to subdivision (b), or, if the amount computed  
4 pursuant to subdivision (c) is negative, the sum of the amounts  
5 computed pursuant to subdivisions (b) and (c) if the sum is greater  
6 than zero.

7 (2) The Superintendent shall apportion any portion of the  
8 appropriation made for purposes of paragraph (1) that is not  
9 apportioned pursuant to paragraph (1) pursuant to the following  
10 calculation:

11 (A) Add the amount calculated pursuant to subdivision (b) to  
12 the amount computed pursuant to subdivision (a) for a county  
13 superintendent of schools.

14 (B) Subtract the amount computed pursuant to subparagraph  
15 (A) from the amount computed pursuant to subdivision (e) of  
16 Section 2574 for the county superintendent of schools.

17 (C) Divide the difference for the county superintendent of  
18 schools computed pursuant to subparagraph (B) by the sum of the  
19 differences for all county superintendents of schools computed  
20 pursuant to subparagraph (B).

21 (D) Multiply the proportion computed pursuant to subparagraph  
22 (C) by the unapportioned balance in the appropriation.

23 (E) Apportion to each county superintendent of schools the  
24 amount calculated pursuant to subparagraph (D), or if subdivision  
25 (c) is negative, apportion the sums of subdivisions (b) and (c) and  
26 subparagraph (D) of this subdivision if the sum is greater than  
27 zero.

28 (F) The Superintendent shall repeat the computation made  
29 pursuant to this paragraph, accounting for any additional amounts  
30 apportioned after each computation, until the appropriation made  
31 for purposes of paragraph (1) is fully apportioned.

32 (G) The total amount apportioned pursuant to this subdivision  
33 to a county superintendent of schools shall not exceed the  
34 difference for the county superintendent of schools calculated  
35 pursuant to paragraph (1) of subdivision (b).

36 (g) (1) For a county superintendent of schools for whom, in the  
37 2013–14 fiscal year, the amount computed pursuant to subdivision  
38 (c) is less than the amount computed pursuant to subdivision (d),  
39 in the first fiscal year following the fiscal year in which the sum  
40 of the apportionments computed pursuant to subdivisions (e) and

(f) is equal to, or greater than, the amount computed pursuant to subdivision (d) of this section, the Superintendent shall apportion to the county superintendent of schools the amount computed in subdivision (d) in that fiscal year and each fiscal year thereafter instead of the amounts computed pursuant to subdivisions (e) and (f).

(2) For a county superintendent of schools for whom, in the 2013–14 fiscal year, the amount computed pursuant to subdivision (c) is greater than the amount computed pursuant to subdivision (d), in the first fiscal year in which the amount computed pursuant to subdivision (c) would be less than the amount computed pursuant to subdivision (d), the Superintendent shall apportion to the county superintendent of schools the amount computed in subdivision (d) in that fiscal year and each fiscal year thereafter instead of the amounts computed pursuant to subdivisions (e) and (f).

(3) In each fiscal year, the Superintendent shall determine the percentage of county superintendents of schools that are apportioned funding that is less than the amount computed pursuant to subdivision (d), as of the second principal apportionment of the fiscal year. If the percentage is less than 10 percent, the Superintendent shall apportion to those county superintendents of schools funding equal to the amount computed in subdivision (d) in that fiscal year and for each fiscal year thereafter instead of the amounts calculated pursuant to subdivisions (e) and (f).

(4) Commencing with the first fiscal year after the apportionments in paragraph (3) are made, the adjustments in paragraph (4) of subdivision (a) of Section 2574 and subparagraph (B) of paragraph (1) of subdivision (c) of Section 2574 shall be made only if an appropriation for those purposes is included in the annual Budget Act.

(5) If the calculation pursuant to subdivision (d) is negative and the Superintendent apportions to a county superintendent of schools the amount computed pursuant to subdivision (d) pursuant to paragraph (1), (2), or (3) of this subdivision, an amount of property tax of the county superintendent of schools equal to the negative amount shall be deemed restricted and not available for expenditure during that fiscal year. In the following fiscal year the restricted amount shall be considered restricted local property tax revenue for purposes of subdivision (a) of Section 2578.

(h) Commencing with the 2013–14 fiscal year, the Superintendent shall apportion to a county superintendent of schools an amount of state aid, including any amount apportioned pursuant to subdivisions (f) and (g), that is no less than the amount calculated in subparagraph (A) of paragraph (2) of subdivision (a).

(i) (1) For the 2013–14 and 2014–15 fiscal years only, a county superintendent of schools who, in the 2012–13 fiscal year, from any of the funding sources identified in paragraph (1) or (2) of subdivision (a), received funds on behalf of, or provided funds to, a regional occupational center or program joint powers agency established in accordance with Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code for purposes of providing instruction to pupils enrolled in grades 9 to 12, inclusive, shall not redirect that funding for another purpose unless otherwise authorized ~~in~~ by law or pursuant to an agreement between the regional occupational center or program joint powers agency and the contracting county superintendent of schools.

(2) For the 2013–14 and 2014–15 fiscal years only, if a regional occupational center or program joint powers agency established in accordance with Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code for purposes of providing instruction to pupils enrolled in grades 9 to 12, inclusive, received, in the 2012–13 fiscal year, an apportionment of funds directly from any of the funding sources identified in subparagraph (A) of paragraph (2) of subdivision (a), the Superintendent shall apportion that same amount to the regional occupational center or program joint powers agency.

*(3) A county superintendent of schools who, in the 2012–13 fiscal year, from any of the funding sources identified in paragraph (1) or (2) of subdivision (a), received funds on behalf of, or provided funds to, a regional occupational center or program consortium shall not redirect that funding for another purpose unless otherwise authorized by law or pursuant to an agreement between the members of the regional occupational center or program consortium and the county superintendent of schools.*

(j) For the 2013–14 and 2014–15 fiscal years only, a county superintendent of schools who, in the 2012–13 fiscal year, from any of the funding sources identified in paragraph (1) or (2) of subdivision (a), received funds on behalf of, or provided funds to,

1 a home-to-school transportation joint powers agency established  
2 in accordance with Article 1 (commencing with Section 6500) of  
3 Chapter 5 of Division 7 of Title 1 of the Government Code for  
4 purposes of providing pupil transportation shall not redirect that  
5 funding for another purpose unless otherwise authorized ~~in~~ by law  
6 or pursuant to an agreement between the home-to-school  
7 transportation joint powers agency and the contracting county  
8 superintendent of schools.

9 (k) (1) In addition to subdivision (j), of the funds a county  
10 superintendent of schools receives for home-to-school  
11 transportation programs, the county superintendent of schools shall  
12 expend, pursuant to Article 2 (commencing with Section 39820)  
13 of Chapter 1 of Part 23.5 of Division 3 of Title 2, Article 10  
14 (commencing with Section 41850) of Chapter 5 of Part 24 of  
15 Division 3 of Title 2, and the Small School District Transportation  
16 program, as set forth in Article 4.5 (commencing with Section  
17 42290) of Chapter 7 of Part 24 of Division 3 of Title 2, no less for  
18 those programs than the amount of funds the county superintendent  
19 of schools expended for home-to-school transportation in the  
20 2012–13 fiscal year.

21 (2) For the 2013–14 and 2014–15 fiscal years only, if a  
22 home-to-school transportation joint powers agency established in  
23 accordance with Article 1 (commencing with Section 6500) of  
24 Chapter 5 of Division 7 of Title 1 of the Government Code for  
25 purposes of providing pupil transportation received, in the 2012–13  
26 fiscal year, an apportionment of funds directly from the  
27 Superintendent from any of the funding sources identified in  
28 subparagraph (A) of paragraph (2) of subdivision (a), the  
29 Superintendent shall apportion that same amount to the  
30 home-to-school transportation joint powers agency.

31 (3) For the 2013–14 and 2014–15 fiscal years only, of the funds  
32 a county superintendent of schools receives for purposes of regional  
33 occupational centers or programs, or adult education, the county  
34 superintendent of schools shall expend no less for each of those  
35 programs than the amount of funds the county superintendent of  
36 schools expended for purposes of regional occupational centers  
37 or programs, or adult education, respectively, in the 2012–13 fiscal  
38 year. For purposes of this paragraph, a county office of education  
39 may include expenditures made by a school district within the  
40 county for purposes of regional occupational centers or programs



1 so long as the total amount of expenditures made by the school  
2 districts and the county office of education equal or exceed the  
3 total amount required to be expended for purposes of regional  
4 occupational centers or programs pursuant to this paragraph and  
5 paragraph (7) of subdivision (a) of Section 42238.03.

6 (l) The funds apportioned pursuant to this section and Section  
7 2574 shall be available to implement the activities required  
8 pursuant to Article 4.5 (commencing with Section 52060) of  
9 Chapter 6.1 of Part 28 of Division 4 of Title 2.

10 SECTION 1. ~~Section 290.03 of the Penal Code is amended to~~  
11 ~~read:~~

12 ~~290.03.—(a) The Legislature finds and declares that a~~  
13 ~~comprehensive system of risk assessment, supervision, monitoring,~~  
14 ~~and containment for registered sex offenders residing in California~~  
15 ~~communities is necessary to enhance public safety and reduce the~~  
16 ~~risk of recidivism posed by these offenders. The Legislature further~~  
17 ~~affirms and incorporates the following findings and declarations,~~  
18 ~~previously reflected in its enactment of “Megan’s Law”:~~

19 ~~(1) Sex offenders pose a potentially high risk of committing~~  
20 ~~further sex offenses after release from incarceration or commitment,~~  
21 ~~and the protection of the public from reoffending by these offenders~~  
22 ~~is a paramount public interest.~~

23 ~~(2) It is a compelling and necessary public interest that the public~~  
24 ~~have information concerning persons convicted of offenses~~  
25 ~~involving unlawful sexual behavior collected pursuant to Sections~~  
26 ~~290 and 290.4 to allow members of the public to adequately protect~~  
27 ~~themselves and their children from these persons.~~

28 ~~(3) Persons convicted of these offenses involving unlawful~~  
29 ~~sexual behavior have a reduced expectation of privacy because of~~  
30 ~~the public’s interest in public safety.~~

31 ~~(4) In balancing the offenders’ due process and other rights~~  
32 ~~against the interests of public security, the Legislature finds that~~  
33 ~~releasing information about sex offenders under the circumstances~~  
34 ~~specified in the Sex Offender Punishment, Control, and~~  
35 ~~Containment Act of 2006 will further the primary government~~  
36 ~~interest of protecting vulnerable populations from potential harm.~~

37 ~~(5) The registration of sex offenders, the public release of~~  
38 ~~specified information about certain sex offenders pursuant to~~  
39 ~~Sections 290 and 290.4, and public notice of the presence of certain~~  
40 ~~high risk sex offenders in communities will further the~~

1 governmental interests of public safety and public scrutiny of the  
2 criminal and mental health systems that deal with these offenders.

3 ~~(6) To protect the safety and general welfare of the people of~~  
4 ~~this state, it is necessary to provide for continued registration of~~  
5 ~~sex offenders, for the public release of specified information~~  
6 ~~regarding certain more serious sex offenders, and for community~~  
7 ~~notification regarding high risk sex offenders who are about to be~~  
8 ~~released from custody or who already reside in communities in~~  
9 ~~this state. This policy of authorizing the release of necessary and~~  
10 ~~relevant information about serious and high risk sex offenders to~~  
11 ~~members of the general public is a means of assuring public~~  
12 ~~protection and shall not be construed as punitive.~~

13 ~~(7) The Legislature also declares, however, that in making~~  
14 ~~information available about certain sex offenders to the public, it~~  
15 ~~does not intend that the information be used to inflict retribution~~  
16 ~~or additional punishment on any person convicted of a sex offense.~~  
17 ~~While the Legislature is aware of the possibility of misuse, it finds~~  
18 ~~that the dangers to the public of nondisclosure far outweigh the~~  
19 ~~risk of possible misuse of the information. The Legislature is~~  
20 ~~further aware of studies in Oregon and Washington indicating that~~  
21 ~~community notification laws and public release of similar~~  
22 ~~information in those states have resulted in little criminal misuse~~  
23 ~~of the information and that the enhancement to public safety has~~  
24 ~~been significant.~~

25 ~~(b) In enacting the Sex Offender Punishment, Control, and~~  
26 ~~Containment Act of 2006, the Legislature hereby creates a~~  
27 ~~standardized, statewide system to identify, assess, monitor and~~  
28 ~~contain known sex offenders for the purpose of reducing the risk~~  
29 ~~of recidivism posed by these offenders, thereby protecting victims~~  
30 ~~and potential victims from future harm.~~

31 ~~(c) The Legislature does not preempt local agencies from~~  
32 ~~enacting ordinances that restrict where persons required to register~~  
33 ~~pursuant to Section 290 may go within a municipality.~~